IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3382 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BINITA SURESHKUMAR PAREKH - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR VH DESAI for Petitioner(s) : 1,
Ms. Kiran Pande, Asst. GOVERNMENT PLEADER for Respondent(s) : 1 - 2.
NOTICE SERVED for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 29/11/2006

ORAL JUDGMENT

By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, order or direction quashing and setting aside the action

of the respondents in terminating the services of the petitioner and to direct the respondents to regularise her services as Lecturer [English].

2. It is not in dispute that appointment of the petitioner was purely on adhoc basis till a candidate as selected by GPSC was available. It is an admitted position that the petitioner was not selected by GPSC. While admitting the present Special Civil Application, by way of interim order it was directed that the petitioner shall be continued as Lecturer in English in respondent No.3 college till the said post is filled-in either by transfer or by appointment of a duly selected candidate by GPSC.

3. It appears from the affidavit-in-reply that the petitioner is serving as 'adhoc Lecturer' in Government Science College, Valod, District-Surat as no GPSC selected candidate was posted vice the petitioner.

4. Identical question came to be considered in group of petitions including Special Civil Application No. 3038 of 1997, where, considering the various orders passed by this Court in Letters Patent Appeal and Special Civil Application, and considering the judgment of the Hon'ble Supreme Court in the case of ***Secretary, State of Karnataka & Others Vs. Umadevi and Others,*** reported in ***2006 (4) SCC Page 1*** as well as the judgment of the Division Bench of this Court in case of ***K.D. Vora Vs. A.G. Patel,*** reported in ***2003(2) GLR Page 1343***, this Court has refused the prayer to regularise services of petitioners therein by holding that as their appointment was purely on adhoc basis which were made till regularly selected candidates by GPSC were available, they were not entitled to relief of regularisation. However, this Court directed the respondents to continue the petitioners purely on adhoc basis till regular candidates as selected by GPSC are available and further

directed the respondents to fill-up the posts by GPSC selected regular candidates within a reasonable time.

5. Under the circumstances, while disposing of the present petition, following directions are issued;

(i) The respondents are directed to continue the petitioner in service purely on adhoc basis till a regularly selected candidate is available and appointed;

(ii) The respondents are directed to fill-up the said post by regularly selected candidate within the period of 6 months from today. It will, however, be open for the State Government and/or the concerned department/authority to

fill-up the post occupied by the petitioner by way of transfer considering the administrative exigencies and to relieve the petitioner.

(iii) It will also be open for the State Government and/or the concerned department/authority to consider the workload, and if it is ultimately found that there is less workload and in that case the service of the petitioner is not needed, the petitioner may be relieved by passing appropriate order.

6. Subject to the above directions, the present Special Civil Application is dismissed. Rule is discharged. No costs.

Rmr. [M.R. Shah, J.]